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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,650	07/20/2001	Daryl Hlasny	TAL/7146.110	2629
47915	7590	12/27/2005	EXAMINER	CHEA, PHILIP J
CHERNOFF, VILHAUER, MCCLUNG & STENZEL, LLP 1600 ODS TOWER 601 SW SECOND AVENUE PORTLAND, OR 97204			ART UNIT	PAPER NUMBER
			2153	

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/910,650	HLASNY, DARYL
	Examiner Philip J. Chea	Art Unit 2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 November 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 July 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

This Office Action is in response to a Request for Continued Examination filed November 1, 2005.

Claims 1-26 are currently pending. Any rejection not set forth below has been overcome by the current Amendment.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 3-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fanning et al. (U.S. 6,366,907), and further in view of Keskar (US 2002/0087632).

As per claim 1, Fanning et al. disclose a method of transferring an object from a source device to a destination device, as claimed, comprising:

- discovering one or more processing devices communicating with destination device (see column 3, lines 32-35, where discovering is implied from the client already looking to find a data object from a provider server);
- identifying a discovered data processing device that facilitates a remotely directed search for a data object (see column 3, lines 32-35, where provider server = data processing device);
- using an identified data processing device to search for said object (see column 3, lines 54-67); and
- selecting a discovered data processing device as source device that is a location of said object as said source device (see column 4, lines 6-19, where search parameters can be used to identify certain servers where the object is located); and

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- transferring object from source to destination (see column 4, lines 20-24).

Although the system disclosed by Fanning et al. shows substantial features of the claimed invention (discussed above), it fails to disclose a network comprising at least one piconet and an ad hoc network, using the identified data processing device described above to search for said object on discovered said one or more data processing devices over a communication channel of said ad hoc network.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Fanning et al., as evidenced by Keskar.

In an analogous art, Keskar discloses a system of handheld devices that are able to share items located on the handheld device of the user operating the device (see Abstract). Further showing that the devices are capable of transferring the items using Bluetooth (see page 6, paragraph [0042]), wherein identified data processing devices are discovered and searched for objects (see Fig. 6 and page 7, paragraphs [0044-0045]).

Given the teaching of Keskar, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Fanning et al. by employing the use of Bluetooth to support sharing of items, such as disclosed by Keskar, in order to allow the user to download items when they are in proximity to another Bluetooth equipped device. Since Bluetooth is being utilized, an ad hoc network is implied. In considering the piconet, it is old and well known in the art that piconets are created when devices communicate with Bluetooth wireless technology.

As per claim 3 and 4, Fanning et al. in view of Keskar further disclose the steps of identifying a device that has the data object, as claimed, comprises steps of:

- transmitting a query to data processing device (see Fanning et al. column 6, lines 59-62, where search requests = query);
- including an address of a data processing device responding to query in a list of devices (see Fanning et al. column 7, lines 4-13, where IP address = address of data processing device), and

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- including in list of devices and address of another device facilitating a data object in response to query (see Fanning et al. column 7-13, where list of server descriptions = another device);

As per claim 5, Fanning et al. in view of Keskar further disclose the step of searching device for object, as claimed, comprises steps of:

- transmitting a search request including a user specified search parameter to data processing device (see Fanning et al. columns 6-7, lines 66-67 and 1-3, where search parameters are object name, quality rating, connection bandwidth); and
- receiving a response to search request from a data processing device identifying object having relation to search parameter (see Fanning et al. column 7, lines 4-5, where data object descriptions = data object).

As per claim 6, Fanning et al. in view of Keskar further disclose displaying to a user an object identifier of data object identified in response (see Fanning et al. column 7, lines 4-13, where identifier = object quality rating).

As per claim 7, Fanning et al. in view of Keskar further disclose an object name associated with object having relation to search parameter (see Fanning et al. column 7, lines 4-13).

As per claim 8, Fanning et al. in view of Keskar further disclose a unique object identifier associated with data object having a relation to search parameter (see Fanning et al. column 7, lines 4-13, where data object fingerprint = unique identifier).

As per claim 9, Fanning et al. in view of Keskar further disclose address of another device which object is located (see Fanning et al. column 7, lines 4-13, where list of server descriptions = another device).

As per claim 10, Fanning et al. in view of Keskar further disclose the step of selecting a discovered data processing device comprises the steps of:

- transmitting availability query to a device that is a location of object (see Fanning et al. column 4, lines 25-32, where availability is determined by the scoring mechanism);

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- receiving a response to transfer availability query including a measure of availability (see Fanning et al. column 4, lines 25-32, where data transfer speed, and reliability of server = measure of availability); and
- selecting a responding device optimizing said measure of availability (see Fanning et al. column 4, lines 32-26, where best score = optimized measurement).

As per claim 11, Fanning et al. in view of Keskar further disclose measure of availability comprising measure of data transfer throughput (see Fanning et al. column 4, lines 28-32, where data transfer speed = data transfer throughput).

As per claim 12, Fanning et al. in view of Keskar further disclose the step of transferring object from source device to destination device comprises the steps of:

- determining an availability of source device to transfer a data object (see Fanning et al. columns 2-3, lines 64-67 and 1-2, where searching = determining);
- transmitting to source device a request to transfer object (see Fanning et al. columns 2-3, lines 64-67 and 1-2, where transfer = transmitting); and
- receiving at destination device data of object (see Fanning et al. columns 2-3, lines 64-67 and 1-2).

3. Claims 2, 17-22,25, and 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Fanning et al. as applied to claim 1 above, and further in view of BLUETOOTH SPECIFICATION Version 1.1.

In considering claims 2 and 17, although the system disclosed by Fanning shows substantial features of the claimed invention (discussed above in claims 3, 5, 10, and 12), it fails to disclose:

- transmitting a paging message over communication channel; and
- including an address of a device responding to paging in a device list.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Fanning et al., as evidenced by BLUETOOTH SPECIFICATION et al.

In an analogous art, BLUETOOTH SPECIFICATION discloses the file transfer profile between a destination device (client) and a source device (server) for ad hoc networks comprising:

- transmitting a paging message (see page 379 Client interaction, where selecting File Transfer Application displays a list of servers that may support the transfer); and
- including an address of a device responding to paging message (see page 379 Client interaction, where a connection takes place implying that the address of the source device is provided to the destination device).

Given the teaching of BLUETOOTH SPECIFICATION, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Fanning et al. by employing server selection in an ad hoc network, such as disclosed by BLUETOOTH SPECIFICATION, in order to see devices that are responsive in the network.

Further in considering claim 17, although the system disclosed by Fanning et al. in view of BLUETOOTH SPECIFICATION shows substantial features of the claimed invention (discussed above), it fails to disclose a network comprising at least one piconet and an ad hoc network, using the identified data processing device to search for said object on responding said devices over a communication channel of said ad hoc network.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Fanning et al. in view of BLUETOOTH SPECIFICATION, as evidenced by Keskar.

In an analogous art, Keskar discloses a system of handheld devices that are able to share items located on the handheld device of the user operating the device (see Abstract). Further showing that the devices are capable of transferring the items using Bluetooth (see page 6, paragraph [0042]), wherein identified data processing device responds to search for objects (see Fig. 6 and page 7, paragraphs [0044-0045]).

Given the teaching of Keskar, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Fanning et al. in view of BLUETOOTH SPECIFICATION by employing the use of Bluetooth to support sharing of items, such as disclosed by

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Keskar, in order to allow the user to download items when they are in proximity to another Bluetooth equipped device. Since Bluetooth is being utilized, an ad hoc network is implied. In considering the piconet, it is old and well known in the art that piconets are created when devices communicate with Bluetooth wireless technology.

As per claim 18, Fanning et al. in view of Keskar in view of BLUETOOTH SPECIFICATION further disclose displaying to a user an object identifier of data object identified in response (see Fanning et al. column 7, lines 4-13, where identifier = object quality rating).

As per claim 19, Fanning et al. in view of Keskar in view of BLUETOOTH SPECIFICATION further disclose an object name associated with object having relation to search parameter (see Fanning et al. column 7, lines 4-13).

As per claim 20, Fanning et al. in view of Keskar in view of BLUETOOTH SPECIFICATION further disclose a unique object identifier associated with data object having a relation to search parameter (see Fanning et al. column 7, lines 4-13, where data object fingerprint = unique identifier).

As per claim 21, Fanning et al. in view of Keskar in view of BLUETOOTH SPECIFICATION further disclose address of another device which object is located (see Fanning et al. column 7, lines 4-13, where list of server descriptions = another device).

As per claim 22, Fanning et al. in view of Keskar in view of BLUETOOTH SPECIFICATION further disclose measure of availability comprising measure of data transfer throughput (see Fanning et al. column 4, lines 28-32, where data transfer speed = data transfer throughput).

Further, in considering claims 25 and 26, Fanning et al. in view of BLUETOOTH SPECIFICATION fails to disclose:

- identifying portion of object not transferred including a measure of quantity of data comprising object; and
- comparing a measure of data received to measure of quantity of object.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Fanning et al. in view of BLUETOOTH SPECIFICATION, as evidenced by Fielding et al.

In an analogous art, Fielding et al. discloses a protocol for sending and receiving data from a destination device and a source device comprising:

- identifying portion of object not transferred including a measure of quantity of data comprising object (see HTTP/1.1 RFC 2616 section 3.12, where range units can be used to specify the amount of data to be transferred to destination device from source device); and
- comparing a measure of data received to measure of quantity of object (see HTTP/1.1 RFC 2616 section 3.12, where range units can be used to specify the amount of data to be transferred to destination device from source device). *It is implied that the amount of the file left to download would be known if the range units were used to specify the amount left to download.*

Given the teaching of Fielding et al., a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Fanning et al. in view of BLUETOOTH SPECIFICATION by employing partial file download capability, such as disclosed by Fielding et al., in order to resume a broken download.

In considering claim 26, it is implied that the order of bytes that is sent over using the HTTP/1.1 protocol is in order.

4. Claims 13 and 14 rejected under 35 U.S.C. 103(a) as being unpatentable over Fanning et al. in view of Keskar as applied to claims 1 and 12 above, and further in view of Kazaa (Kazaa Media Desktop URL:<http://web.archive.org/web/20001201223800/www.kazaa.com/index.php?page=technology>).

As per claim 13, although the system disclosed by Fanning et al. in view of Keskar shows substantial features of the claimed invention (discussed above), it fails to disclose:

- receiving a portion of object and an identifier of portion; and

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- preserving identifier of portion of data.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Fanning et al. in view of Keskar, as evidenced by Kazaa.

In an analogous art, Kazaa discloses a system of transferring an object from a source device to a destination device including a searching means, selecting means, transferring means, and receiving means wherein receiving means comprises steps of:

- receiving a portion of data object (see Intelligent Downloads, paragraph 1, lines 7-8, where dividing into several chunks = receiving a portion of data); and
- preserving said identifier of identifier (see Intelligent Downloads, paragraph 1, lines 7-8, where it is implied that the identifier is preserved so the system knows where to start the next chunk).

Given the teaching of Kazaa, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Fanning et al. in view of Keskar by employing partial downloading, such as disclosed by Kazaa, in order to improve download speed and reliability (see Intelligent Downloads, paragraph 1, line 1).

As per claim 14, although the system disclosed by Fanning et al. in view of Keskar shows substantial features of the claimed invention (discussed above), it fails to disclose:

- identifying a portion of object not transferred;
- identifying a second source having a second portion of object that has not been transferred; and
- requesting transfer of second object from second source.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Fanning et al. in view of Keskar, as evidenced by Kazaa.

Kazaa further discloses:

- identifying a portion of object not transferred to destination device (see Intelligent Downloads, paragraph 2, lines 1-5, where when a download fails in the middle of transmission, a second source is tried);

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- identifying a second source having a second portion of object (see Intelligent Downloads, paragraph 2, lines 1-5, where identifying is implied considering the download is attempted from another source); and
- requesting transfer of second portion of object from second source (see Intelligent Downloads, paragraph 2, lines 1-5, where requesting download is implied considering the download is attempted from another source).

Given the teaching of Kazaa, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Fanning et al. in view of Keskar by employing a recovered download attempt from another source, such as disclosed by Kazaa, in order to improve the reliability that the transmission will be completed (see Intelligent Downloads, paragraph 1, line 1).

5. Claims 15 and 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Fanning et al. in view of Keskar in view of Kazaa as applied to claim 14 above, and further in view of Fielding et al. (HTTP/1.1 RFC 2616). Although the system disclosed by Fanning et al. in view of Keskar in view of Kazaa shows substantial features of the claimed invention (discussed above), it fails to disclose:

- identifying portion of object not transferred including a measure of quantity of data comprising object; and
- comparing a measure of data received to measure of quantity of object.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Fanning et al. in view of Keskar in view of Kazaa, as evidenced by Fielding et al.

In an analogous art, Fielding et al. discloses a protocol for sending and receiving data from a destination device and a source device comprising:

- identifying portion of object not transferred including a measure of quantity of data comprising object (see HTTP/1.1 RFC 2616 section 3.12, where range units can be used to specify the amount of data to be transferred to destination device from source device); and

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- comparing a measure of data received to measure of quantity of object (see HTTP/1.1 RFC 2616 section 3.12, where range units can be used to specify the amount of data to be transferred to destination device from source device). *It is implied that the amount of the file left to download would be known if the range units were used to specify the amount left to download.*

Given the teaching of Fielding et al., a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Fanning et al. in view of Keskar in view of Kazaa by employing partial file download capability, such as disclosed by Fielding et al., in order to resume a broken download.

In considering claim 16, it is implied that the order of bytes that is sent over using the HTTP/1.1 protocol is in order.

6. Claims 23 and 24 rejected under 35 U.S.C. 103(a) as being unpatentable over Fanning et al. in view of Keskar in view of BLUETOOTH SPECIFICATION as applied to claim 17 above, and further in view of Kazaa (Kazaa Media Desktop

URL:<http://web.archive.org/web/20001201223800/www.kazaa.com/index.php?page=technology>.

As per claim 23, although the system disclosed by Fanning et al. in view of Keskar in view of BLUETOOTH SPECIFICATION shows substantial features of the claimed invention (discussed above), it fails to disclose:

- receiving a portion of object and an identifier of portion; and
- preserving identifier of portion of data.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Fanning et al. in view of Keskar in view of BLUETOOTH SPECIFICATION, as evidenced by Kazaa.

In an analogous art, Kazaa discloses a system of transferring an object from a source device to a destination device including a searching means, selecting means, transferring means, and receiving means wherein receiving means comprises steps of:

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- receiving a portion of data object (see Intelligent Downloads, paragraph 1, lines 7-8, where dividing into several chunks = receiving a portion of data); and
- preserving said identifier of identifier (see Intelligent Downloads, paragraph 1, lines 7-8, where it is implied that the identifier is preserved so the system knows where to start the next chunk).

Given the teaching of Kazaa, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Fanning et al. in view of Keskar in view of BLUETOOTH SPECIFICATION by employing partial downloading, such as disclosed by Kazaa, in order to improve download speed and reliability (see Intelligent Downloads, paragraph 1, line 1).

As per claim 24, although the system disclosed by Fanning et al. in view of Keskar in view of BLUETOOTH SPECIFICATION shows substantial features of the claimed invention (discussed above), it fails to disclose:

- identifying a portion of object not transferred;
- identifying a second source having a second portion of object that has not been transferred; and
- requesting transfer of second object from second source.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Fanning et al. in view of Keskar in view of BLUETOOTH SPECIFICATION, as evidenced by Kazaa.

Kazaa further discloses:

- identifying a portion of object not transferred to destination device (see Intelligent Downloads, paragraph 2, lines 1-5, where when a download fails in the middle of transmission, a second source is tried);
- identifying a second source having a second portion of object (see Intelligent Downloads, paragraph 2, lines 1-5, where identifying is implied considering the download is attempted from another source); and

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- requesting transfer of second portion of object from second source (see Intelligent Downloads, paragraph 2, lines 1-5, where requesting download is implied considering the download is attempted from another source).

Given the teaching of Kazaa, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Fanning et al. in view of Keskar in view of BLUETOOTH SPECIFICATION by employing a recovered download attempt from another source, such as disclosed by Kazaa, in order to improve the reliability that the transmission will be completed (see Intelligent Downloads, paragraph 1, line 1).

#### ***Response to Arguments***

7. Applicant's arguments filed November 1, 2005 have been fully considered but they are not persuasive.

(A) Applicant contends that one of ordinary skill in the art would have no motive combine Fanning and Keskar because the combination would provide no additional functionality to either of the respective systems.

(B) Applicant contends that Fanning in view of Keskar fail to show "identifying a discovered data processing device that facilitates a remotely directed search for a data object" and "using an identified data processing device to search for said object on discovered said one or more data processing devices over a communication channel of said ad hoc network."

In considering (A), the Examiner respectfully disagrees. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Keskar shows that it would be obvious to allow peers to search for relevant items and

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share those relevant items in an ad hoc network. A person skilled in the art would recognize the advantages of modifying a system that allows file searching and sharing, such as disclosed by Fanning, in order to search and share files among mobile devices.

In considering (B), the Examiner respectfully disagrees. The Examiner believes that a user starting up a search engine and connecting to a server to search for files located on remote computers can read on the broad limitation of "identifying a discovered data processing device". If a user is not currently connected to a server, then proceeds to connect to the server, the newly formed connection is a discovery of a server. In considering Keskar not disclosing remotely directed search for a data object, the Examiner believes that Keskar shows searching for a data object in the form of a user making a request for relevant items on another users handheld device. In addition, although Fanning's search engine makes use of an up-to-date list present on the server of a search engine, the list reflects the existence of remotely stored data objects that a user is searching for and ultimately retrieves from the remote provider servers.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J. Chea whose telephone number is 571-272-3951. The examiner can normally be reached on M-F 7:00-4:30 (1st Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Philip J Chea  
Examiner  
Art Unit 2153

PJC 12/6/05



Dung C. Dinh  
Philip J. Chea  
P.I.C. 12/6/05